



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/743,857

12/22/2003

Randolf Von Oepen

17601.41a.1.1.1.3

9100

57360

7590

01/06/2009

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER

BUI, VY Q

ART UNIT

PAPER NUMBER

3773

MAIL DATE

DELIVERY MODE

01/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/743,857	Applicant(s) VON OEPEN ET AL.	
	Examiner Vy Q. Bui	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-39 and 41-77 is/are pending in the application.
- 4a) Of the above claim(s) 40, 78-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

This application contains claims 40, 78-112 drawn to an invention nonelected with traverse in the reply filed on 11/16/2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 36, 38-39, 41-48, 50, 52-62, 64, 66-74, and 76 are rejected under 35 U.S.C. 102(e) as being anticipated by Trapp-5,861,027.

As to 36, 38-39, 41-48, 50, 52-62, 64, 66-74, and 76, Trapp-'027's Fig. 4, for example, discloses self-expanding stents of nitinol and balloon expanding stents of stainless steel or titanium (col. 8, lines 51-56), and a stent structure including arcuate webs defining web patterns, bends interconnecting at the mid-sections of two S-shaped arcuate webs, H-shaped connection elements connecting two web patterns substantially as recited in the claims as indicated on next page. Notice that Trapp-'027 (col. 8, lines 16-21) discloses a coating comprising a nylon, a polyethylene, for example, as a therapeutic agent for a treatment purpose. Alternatively, it is well known in the art to provide a coating of a therapeutic agent, such as a heparin, on a Trapp-'027 stent for treatment a blood vessel.

Please notice the following:

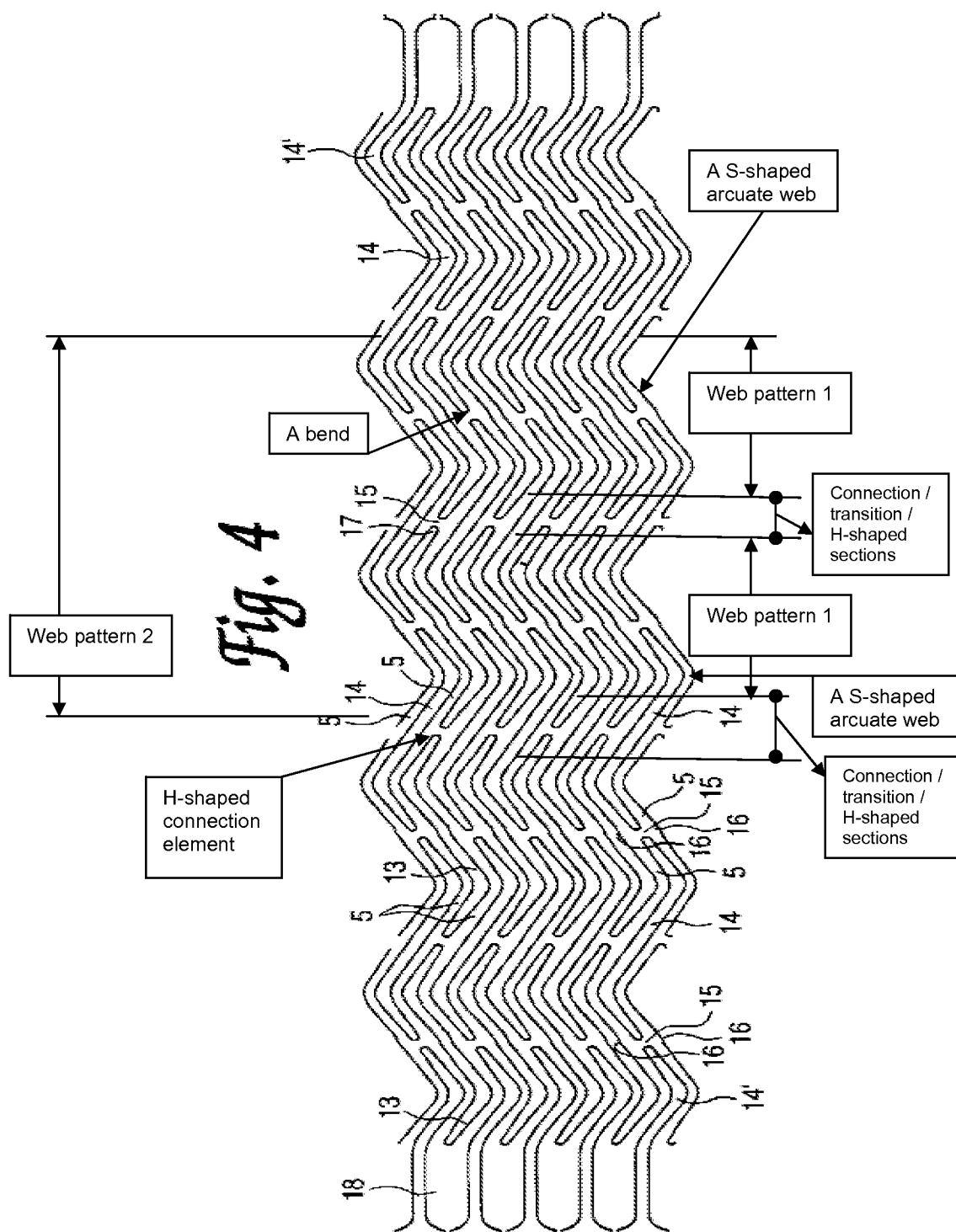
Independent claims 36, 50, 76 do not require any relative positions of "at least two of the transition sections". Therefore, there are pairs of two selected connection elements that can be selected to meet the requirements (transition sections separated by at least three arcuate webs, or by at least two/four bends, or offset by at least two intervening bends) as recited in the claims (see Trapp-'027's Fig. 4, next page).

As to independent claim 64, S-shaped openings of Trapp-'027's Fig. 4 are considered as intercommunicating because they all are in the same cylindrical surface of the stent.

Further, as to claims 44, 58, 70, Trapp-'027's Fig. 4 shows three arcuate webs define at least an S-shaped structure.

Further more, claim 76, for example, recite the limitation "offset". If two 3-D elements are not fully aligned, they meet the limitation "offset".

Art Unit: 3773



Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 37, 51, 65 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trapp-, 5,861,027 in view of Zhong-6,231,600.

As to claims 2, 15, 28 and 40, Trapp-'027 discloses a coating of nylon or polyethylene as a therapeutic agent (for a treatment purpose) and does not disclose an agent that retards thrombus formation. However, coating a stent with an agent that retards thrombus formation is well known in the art. For example, Zhong-6,231,600 (abstract; lines 9-10) discloses a coating of heparin to inhibit clot formation.

As to claims 49, 63, and 75, Trap-'027 does not disclose a radiopaque feature. However, providing a stent with a radiopaque feature to facilitate viewing a stent in a body is well known in the art. For example, Alt-5,824,045 (col. 3, lines 11-16) discloses a stent having a gold plating as a radiopaque feature for viewing the stent in the body.

Response to Amendment

The amendment filed on 9/12/2008 under 37 CFR 1.131 has further defined the present invention over Trapp-, 5,861,027.

However, the claim language is broadly interpreted and rejected as indicated above because the claimed invention is not clearly distinguishable over Trap-'027 reference.

Response to Arguments

Applicant's arguments with respect to the amended claims of the present invention have been considered but are moot in view of the above ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/
Primary Examiner, Art Unit 3773